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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/963,664	09/27/2001	Axel Bogisch	225/50428	8954

7590 02/11/2003

CROWELL & MORING, L.L.P.
P.O. Box 14300
Washington, DC 20044-4300

EXAMINER

NELSON JR, MILTON

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 02/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/963,664

Applicant(s)
Bogisch

Examiner
Milton Nelson, Jr.

Art Unit
3636



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Nov 29, 2002
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above, claim(s) 6-8, 16-25, 29, and 32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 9-15, 26-28, 30, and 31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 5 6) ☐ Other:

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DETAILED ACTION

Election/Restriction

1. Applicant's election with traverse of Group 1, Figures 1, 2 and 4, claims 1-5, 9-15, 26-28, 30 and 31 in Paper No. 7 is acknowledged. Claims 6-8, 16-25, 29 and 32 have been withdrawn from further consideration.
2. Applicant's election with traversal is on the ground(s) that allowable generic claims are present and therefore dependent claims to non-elected embodiments should be considered and allowed in this application. This is not found persuasive because it has not been shown that there are non-elected dependent claims that are dependent from allowed generic claims.

The requirement is still deemed proper and is therefore made FINAL.

Priority

3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

4. The information referred to in the information disclosure statement filed September 27, 2001 has been considered.

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Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-5, 9, 15 and 31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, it cannot be determined if applicant intends to claim the combination of a windbreak device and motor vehicle, including a passenger cell and at least one vehicle seat, or the subcombination of a windbreak device for use with a motor vehicle, including a passenger cell and at least one vehicle seat. Line 1 appears to set forth the subcombination. Note the recitation "windbreak device for an open motor vehicle". Lines 1-3 appear to set forth the subcombination. Note the recitation "in whose passenger cell at least one vehicle seat having a backrest and associated head restraint is arranged". Similarly note claim 9 which includes the recitation of seats "arranged in the passenger cell of the motor vehicle". Similarly note claims 15 and 31 where the invention appears to claim relative to the direction of the vehicle. Claims 2-5 are indefinite since each depends from an indefinite claim.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-3, 10-13 and 26-28, as best understood with the above cited indefiniteness, are rejected under 35 U.S.C. 102(b) as being anticipated by Saito et al (5102189). The backrest (SB), air-distributing device (2a), air outflow openings (11b), and fan (3).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 4, 5, 14, and 15, as best understood with the above cited indefiniteness, are rejected under 35 U.S.C. 103(a) as being unpatentable over Saito et al (5102189) in view of Alkire et al (1439681).

Saito et al shows all claimed features of the instant invention with the exception of the air outflow openings arranged on narrow sides of the vehicle seat.

Alkire et al teaches the conventional concept of configuring a ventilated vehicle seat with air outflow openings (3) arranged on narrow sides of the vehicle seat (see Figure 4).

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It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify Saito et al in view of the teachings of Alkire et al by configuring air outflow openings as arranged on narrow sides of the vehicle seat durability. Such enhances ventilation by providing air flow in directions/areas in addition to those from the non-narrow sides of the vehicle seat. Such enhances user comfort.

11. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Saito et al (5102189) in view of Lush (5626386).

Saito et al shows all claimed features of the instant invention with the exception of the plurality of the vehicle seat assemblies disposed side by side in a row.

Lush teaches the conventional concept of configuring a vehicle seat assembly as a plurality of the vehicle seat assemblies disposed side by side in a row.

It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify Saito et al in view of the teachings of Lush by configuring the vehicle seat assembly as a plurality of the vehicle seat assemblies disposed side by side in a row. Such conventionally provides the advantages of the ventilation system to a plurality of users independently or currently.

Allowable Subject Matter

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12. Claims 9 and 31 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

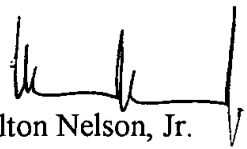
13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Padovano (3785600) shows a plural rows of side by side vehicle seats. Each of Williams (1475912), Cremer et al (4685727), Yu (5016302), Tilley (6079781), Dudderar (1091816), Yoshinori et al (6059018), Suzuki et al (6062641), Feher (5002336), Drori (4002108), Goldstein (2931427), Ouellette (Re25710), Ekman et al (5927817), and Feher (4923248) shows a ventilating seating structure.

14. Any inquiry of a general nature or relating to the status of this application should be directed to the Group Customer Service Representative at (703) 306-5771.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Milton Nelson, Jr. whose telephone number is (703) 308-2117. The examiner can normally be reached on Monday-Thursday from 5:30 AM-3:00PM. The examiner can also be reached on alternate Fridays.

The fax number for this Group is (703) 305-7687.

mn
February 6, 2003


Milton Nelson, Jr.
Primary Examiner